

FILED

DEC 04 2009

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

Clerk, U. S. District Court
Eastern District of Tennessee
At Knoxville

THOMAS GIRDLESTONE,

Plaintiff,

v.

ACE LIMITED, a/k/a ACE GROUP &
ACE WESTCHESTER, d/b/a ILLINOIS
UNION INSURANCE

Defendants.

Civil No. 3:09-CV-530
From the Knox County Chancery Court
No. 176327-1

Phillips/Shirley

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §1441 and 1446, Defendant ACE Limited hereby gives notice that it is removing this civil action from the Chancery Court for Knox County, Tennessee, to the United States District Court for the Eastern District of Tennessee at Knoxville, and in support thereof shows the following:

1. On October 23, 2009, Plaintiff Thomas Girdlestone initiated this civil action against ACE Limited¹ in the Chancery Court for Knox County, Tennessee, which is located within the Eastern District of Tennessee. Attached hereto as Exhibit A is a copy of the Summons and Complaint from the State Court Action ("State Court Action"). The Summons and Complaint are the only process, claim or pleadings filed in the State Court Action.

2. On November 6, 2009, ACE Limited's outside counsel, with ACE Limited's consent, accepted service on behalf of ACE Limited. Until November 6, 2009, Plaintiff had not achieved proper

¹ Plaintiff has only sued one defendant, Ace Limited, and erroneously alleges that Ace Limited is "a/k/a Ace Group & Ace Westchester d/b/a Illinois Union Insurance."

service on ACE Limited. Attached hereto as Exhibit B is a copy of ACE Limited's counsel's acceptance of service.

3. The Complaint alleges claims sounding in breach of an insurance contract, negligence, fraudulent misrepresentation, outrageous conduct, violations of the Tennessee Consumer Protection Act, and the Tennessee Unfair Claims Practice Act. Plaintiff seeks compensatory, treble and punitive damages and attorneys fees. Complaint at Prayer for Relief, ¶¶ C-J. In total, Plaintiff seeks in excess of \$3,700,000 from ACE Limited.

4. Plaintiff is a citizen and resident of Knox County, Tennessee. Complaint at ¶ 1. ACE Limited is a Swiss-incorporated company with a primary place of business in New York, New York. *See* <http://www.acelimited.com/AceLimitedRoot/About+ACE/ACE+Limited> (last visited November 16, 2009); *See also* Complaint at ¶ 2. The parties are of diverse citizenship and the amount in controversy exceeds \$75,000, exclusive of interest and costs. Thus, this Court has original jurisdiction of this action under 28 U.S.C. § 1332. Complaint at ¶¶ 1-2, Prayer for Relief.

5. This Notice of Removal is being filed within thirty days of November 6, 2009, the date on which Plaintiff effected service of process on ACE Limited. Thus, this Notice of Removal is timely pursuant to the United States Supreme Court's decision in *Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 119 S.Ct. 1322 (1999).

6. ACE Limited will promptly notify the Clerk and Master of the Knox County Chancery Court and Plaintiff of this removal. The giving of such notice will effect the removal of the State Court Action pursuant to 28 U.S.C. § 1446. A copy of the state court notice is attached as Exhibit C.

7. By removing this action, ACE Limited does not waive any defenses available to it and expressly reserves the right to assert all such defenses in its responsive pleading.

WHEREFORE, Defendant ACE Limited requests that further proceedings of the Knox County Chancery Court be discontinued and that this action be removed in its entirety to the United States District Court for the Eastern District of Tennessee at Knoxville.

Respectfully submitted this 4th day of December, 2009.

By:  _____

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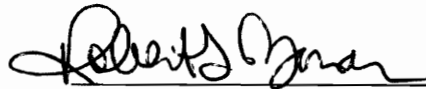
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ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of December, 2009, a true and exact copy of the foregoing **Notice of Removal** was sent to Plaintiff's counsel by certified mail, return receipt requested, to the following address:

Russell L. Egli
Law Office of Russell L. Egli
Post Office Box 23843
Knoxville, Tennessee 37933


Robert L. Bowman